

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN W. WYSKIVER,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

CASE NO. 15cv597-LAB(DHB)

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

John W. Wyskiver challenges the denial of his claim for disability benefits under the Social Security Act. The challenge was referred to Magistrate Judge Bartick for a Report and Recommendation ("R & R") pursuant to 28 U.S.C. § 636, after which Wyskiver and the Commissioner filed cross-motions for summary judgment. On March 14, 2016, Judge Bartick issued his R & R, finding that Wyskiver's summary judgment motion should be granted, the Commissioner's summary judgment motion should be denied and the case should be remanded for further administrative proceedings. No objections were filed.

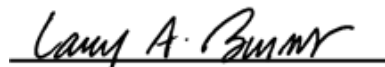
A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendation made by the magistrate judge." 28 U.S.C. § 636(b)(1).

1 Under both the Standing Order of the undersigned Judge and the Local Rules of the
2 Court, the failure to file an objection to a motion may be construed as consent to the motion
3 being granted-and the Court extends this to the failure to file an objection to a R & R. Local
4 Rule 7.1(f)(3)(c). The Court has reviewed Judge Bartick's thorough R & R and finds it is
5 correct. It is **ADOPTED**.

6 Plaintiff's motion for summary judgement is therefore **GRANTED**, Defendant's motion
7 for summary judgement is **DENIED** and the case is **REMANDED** for further administrative
8 proceedings.

9 **IT IS SO ORDERED.**

10 DATED: April 4, 2016

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12 **HONORABLE LARRY ALAN BURNS**
13 United States District Judge
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